

**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
**PROPOSED REGULATORY LANGUAGE**  
**Title 16, Division 39, California Code of Regulations**

Underlined text is proposed new language to Title 16, Division 39.

Article 5. Citations

**§ 4144. Disciplinary Guidelines**

- (a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code section 11400 et seq.), the Board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines" [December 2003] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such deviation, e.g., the presence of mitigating factors; age of the case; evidentiary problems.
- (b) All probationers shall submit and cause each health care employer to submit quarterly reports to the Board. The reports shall be on forms obtained by the Board, which are hereby incorporated by reference.

Note: Authority cited: Section 2570.20 Business and Profession Code. Reference: Sections 125.6, 125.9, 475, 480, 481, 482, 490, 496, 2570.26, 2570.27, 2570.28, 2570.29, 2570.30, 2570.31, 2570.32, Business and Professions Code and Section 11425.50(e), Government Code.

Dated: March 15, 2004\_\_\_\_\_

\_\_\_\_\_  
Gretchen Kjose, Executive Officer

# ***DISCIPLINARY GUIDELINES***

***December 2003***

## ***I. INTRODUCTION***

To establish consistency in disciplinary penalties for similar offenses on a statewide basis, the California Board of Occupational Therapy (Board) has adopted these uniform disciplinary guidelines for particular violations. This document, designed for use by attorney's administrative law judges, occupational therapists, occupational therapy assistants, others involved in the disciplinary process, and ultimately the Board, may be revised from time to time and shall be distributed to interested parties upon request.

These guidelines include general factors to be considered, probationary terms, and guidelines for specific offenses. The guidelines for specific offenses reference the applicable statutory and regulatory provision(s).

For purposes of this document, the term "license" includes the occupational therapy license and the occupational therapy assistant certificate. The terms and conditions of probation are divided into two general categories:

- (1) Standard Conditions are those conditions of probation which will generally appear in all cases involving probation as a standard term and condition; and
- (2) Optional Conditions are those conditions which address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case.

The Board recognizes that these recommended penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations, as discussed herein. If there are deviations from the guidelines, the Board requests that the Administrative Law Judge hearing the matter include an explanation in the Proposed Decision so that the circumstances can be better understood and evaluated by the Board upon review of the Proposed Decision and before final action is taken.

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California or from its web site at [www.bot.ca.gov](http://www.bot.ca.gov).

## ***II. GENERAL CONSIDERATIONS***

The Board requests that Proposed Decisions following administrative hearings include the following:

- a. Specific code sections violated with their definitions.
- b. Clear description of the violation.
- c. Respondent's explanation of the violation if he/she is present at the hearing.

- d. Findings regarding aggravation, mitigation, and rehabilitation where appropriate.
- e. When suspension or probation is ordered, the Board requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure from the recommended terms is clearly set forth in the findings and supported by the evidence.

**Factors to be Considered** - In determining whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

- 1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
- 2. Actual or potential harm to any consumer, client or the general public.
- 3. Prior disciplinary record.
- 4. Number and/or variety of current violations.
- 5. Mitigation evidence.
- 6. Rehabilitation evidence.
- 7. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
- 8. Overall criminal record.
- 9. Time passed since the act(s) or offense(s) occurred.
- 10. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
- 11. Recognition by respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

### ***III. DEFINITION OF PENALTIES***

***Revocation:*** Loss of a license as the result of any one (1) or more violations of the Occupational Therapy Practice Act. Revocation of a license is permanent, unless the respondent takes affirmative action to petition the Board for reinstatement of his/her license and demonstrates to the Board's satisfaction that he/she is rehabilitated.

***Suspension:*** Invalidation of a license for a fixed period of time, not to exceed one (1) year.

***Stayed Revocation:*** Revocation of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

***Stayed Suspension:*** Suspension of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

***Probation:*** A period during which a respondent's discipline is stayed in exchange for respondent's compliance with specified conditions relating to improving his/her conduct or preventing the likelihood of a recurrence of the violation.

#### ***IV. DISCIPLINARY GUIDELINES***

The offenses are listed by statute number in the Business and Professions Code. The standard terms of probation as stated herein shall be included for all probations. The optional conditions of probation as stated herein are to be considered and imposed along with any other optional conditions if facts and circumstances warrant. The number(s) in brackets listed after each condition of probation refers to the conditions listed on pages 8-14.

#### ***BUSINESS AND PROFESSIONS CODE SECTIONS – Occupational Therapy Practice Act***

##### **Section 2570.23:**

##### **Violation of 2570.3 - Unlicensed Person Engaging in Practice - Sanctions**

Applicant Maximum: Denial of application for a license  
Applicant Minimum: Thirty (30) days actual suspension and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]

##### **Section 2570.28(a)(1),(2),or(3):**

##### **Unprofessional Conduct – Incompetence, Gross Negligence, Repeated Negligent Acts, Conviction of Practicing Medicine**

Maximum: Revocation  
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#22 and #23]

##### **Section 2570.28(a)(4):**

##### **Unprofessional Conduct – False Advertising**

Maximum: Revocation  
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]

##### **Section 2570.28(a)(5):**

##### **Unprofessional Conduct – Discipline by Other Government Agency**

Maximum: Revocation  
Minimum: Stayed revocation and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]

<b>Section 2570.28(b):</b>	<b>Procuring a License by Fraud, Misrepresentation, Mistake</b>
Maximum:	Revocation
Minimum:	Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> <li>b. Optional condition [#22]</li> </ul>
<b>Section 2570.28(c):</b>	<b>Violating Any Provision of the Occupational Therapy Practice Act or Regulations</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> </ul>
<b>Section 2570.28(d):</b>	<b>False Statement on Application for License or Renewal</b>
Maximum:	Revocation
Minimum:	Stayed revocation, thirty (30) days suspension and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> </ul>
<b>Section 2570.28(e):</b>	<b>Conviction of Crime Substantially Related to License</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> <li>b. Optional conditions [#25, #26]</li> </ul>
<b>Section 2570.28(f) or (g):</b>	<b>Impersonating an Applicant or Acting as Proxy for Another in an Examination for Licensure, Impersonating a Licensee or Allowing Another Person to Use License</b>
Maximum:	Revocation
Minimum:	Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> </ul>
<b>Section 2570.28(h):</b>	<b>Committing Fraud, Dishonest or Corrupt Act</b>
Maximum:	Revocation
Minimum:	Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> </ul>

<b>Section 2570.28(i):</b>	<b>Committing Any Act Punishable as Sexually Related Crime</b>
Maximum:	Revocation
Minimum:	Stayed revocation, ninety (90) days actual suspension and five (5) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> <li>b. Optional Conditions [#15, #16, #23]</li> </ul>
<b>Section 2570.28(j):</b>	<b>Using Excessive Force, Mistreating or Abusing Patient</b>
Maximum:	Revocation
Minimum:	Stayed revocation, ninety (90) days actual suspension and five (5) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> <li>b. Optional Conditions [#15, #16, #23]</li> </ul>
<b>Section 2570.28(k):</b>	<b>Falsifying, Making Grossly Incorrect, Inconsistent, or Unintelligible Entries in Patient/Hospital Record</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> <li>b. Optional Conditions [#14, #17-#19, #21]</li> </ul>
<b>Section 2570.28(l):</b>	<b>Changing the Prescription of Physician or Falsifying Verbal or Written Orders</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> </ul>
<b>Section 2570.28(m):</b>	<b>Failing to Maintain Patient Confidentiality</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> </ul>
<b>Section 2570.28(n):</b>	<b>Delegating Services that Require License to Unlicensed Person</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> </ul>

<b>Section 2570.28(o):</b>	<b>Committing Act that would be Grounds for Denial under Section 480</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> </ul>
<b>Section 2570.28(p):</b>	<b>Failing to Follow Infection Control Guidelines</b>
Maximum:	Revocation
Minimum:	Stayed revocation and one (1) year probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> </ul>
<b>Section 2570.29(a):</b>	<b>Obtain, Possess, Administer to Self, Furnish or Administer to Others, Controlled Substance</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> <li>b. Optional conditions [#14, #17-#19, #21]</li> </ul>
<b>Section 2570.29(b)(1)(2) or (3):</b>	<b>Use Controlled Substance, Dangerous Drug, Alcohol in Manner Dangerous, Injurious to Self or Others</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> <li>b. Optional conditions [#14, #17-#21]</li> </ul>
<b>Section 2570.29(c):</b>	<b>Conviction of Crime Involving Controlled Substance, Dangerous Drug, Alcohol or Falsifying a Record Involving Same</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: <ul style="list-style-type: none"> <li>a. Standard conditions [#1-#13]</li> <li>b. Optional conditions [#14, #17-#21, 26]</li> </ul>

**Section 2570.29(d):** **Committed or Confined by Court for Intemperate Use of Controlled Substance, Dangerous Drug, Alcohol**

Maximum: Revocation  
Minimum: Stayed revocation and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#14, #17-#21, #26]

**Section 2570.29(e):** **Falsify, Make Grossly Incorrect, Inconsistent, or Unintelligible Entries in Hospital/Patient Record involving Controlled Substance or Dangerous Drug**

Maximum: Revocation  
Minimum: Stayed revocation and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#14, #17-#19, #21]

***GENERAL PROVISIONS OF BUSINESS AND PROFESSIONS CODE***

**Section 125.6: Discrimination by Licensee**

Maximum: Revocation  
Minimum: Stayed revocation and one (1) year probation on the following conditions:  
a. Standard conditions [#1-#13]

**Section 480 (a): Denial of Licenses**

Maximum/Minimum: Denial of license

**Section 496: Subversion of Licensing Examinations or Administration of Examinations.**

Maximum: Denial or revocation of license  
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional condition [#22]

**V. *STANDARD CONDITIONS OF PROBATION***  
**(to be included in all cases of probation)**

**1. Obey All Laws**

Respondent shall obey all federal, state and local laws and regulations governing the practice of occupational therapy in California. Respondent shall submit, in writing, a full detailed account of any and all violations of the law to the Board within five (5) days of occurrence.



**2. Compliance with Probation and Quarterly Reporting**

Respondent shall fully comply with the terms and conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with probation. Respondent, within ten (10) days of completion of the quarter, shall submit quarterly written reports to the Board on a Quarterly Report of Compliance form obtained from the Board (Attachment A).

**3. Personal Appearances**

Upon reasonable notice by the Board, respondent shall report to and make personal appearances at times and locations as the Board may direct.

**4. Notification of Address and Telephone Number Change(s)**

Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of his/her new address and any change in work and/or home telephone numbers.

**5. Tolling for Out-of-State Practice, Residence or In-State Non-Practice**

In the event respondent should leave California to reside or to practice outside the State for more than thirty (30) days, respondent shall notify the Board or its designee in writing within ten (10) days of the dates of departure and return. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until respondent resumes practice in California. All provisions of probation shall recommence on the effective date of resumption of practice in California.

**6. Notification to Employer(s)**

When currently employed or applying for employment in any capacity in any health care profession Respondent shall notify his/her employer of the probationary status of respondent's license. This notification to the current employer shall occur no later than the effective date of the Decision. Respondent shall notify any prospective health care employer of his/her probationary status with the Board prior to accepting such employment. This notification shall be made by providing the employer or prospective employer with a copy of the Board's Accusation, Statement of Issues, Stipulated Settlement, or Disciplinary Decision (whichever applies).

Respondent shall cause each health care employer to submit quarterly reports to the Board. The report shall be on a form provided by the Board, and shall include a performance evaluation and such other information as may be required by the Board (Attachment B).

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, within five (5) days if he/she is terminated from any occupational therapy or health care related employment with a full explanation of the circumstances surrounding the termination.

**7. Employment Requirements and Limitations**

During probation, respondent shall work in his/her licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, respondent shall not work for a registry or in any private duty position, except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified, and pre-determined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

**8. Supervision Requirements**

Respondent shall obtain prior approval from the Board, before commencing any employment, regarding the level of supervision provided to the respondent while employed as an occupational therapist or occupational therapy assistant.

Respondent shall not function as a supervisor during the period of probation except as approved, in writing, by the Board.

**9. Continuing Education Requirements**

Respondent shall complete continuing education directly relevant to the violation as specified by the Board. Continuing education shall be completed within a period of time designated by the Board, which timeframe shall be incorporated as a condition of this probation.

Continuing education shall be in addition to the professional development activities required for license renewal. The Board shall notify respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of the assigned coursework, respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Failure to satisfactorily complete the required continuing education as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation. Respondent is responsible for all costs of such continuing education. Upon successful completion of the course(s), respondent shall cause the instructor to furnish proof to the Board within thirty (30) days of course completion.

**10. Maintenance of Valid License**

Respondent shall, at all times while on probation, maintain an active current license with the Board including any period during which license is suspended or probation is tolled.

**11. Cost Recovery Requirements**

Where an order for recovery of costs is made, respondent shall make timely payment as directed in the Board's Decision pursuant to Business and Professions Code section 125.3. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

The Board may conditionally renew or reinstate, for a maximum of one (1) year, the license of any respondent who demonstrates financial hardship. Respondent shall enter into a formal agreement with the Board to reimburse the unpaid costs within that one (1) year period.

Except as provided above, the Board shall not renew or reinstate the license of any respondent who has failed to pay all the costs as directed in a Decision.

**12. Violation of Probation**

If respondent violates probation in any respect, the Board, after giving respondent notice and opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

### **13. Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

## ***VI. OPTIONAL CONDITIONS OF PROBATION***

### **14. Examination by a Physician**

Within sixty (60) days of the effective date of the Decision, respondent shall submit to a physical examination by a physician of his/her choice who meets minimum criteria established by the Board. The physician must be licensed in California and Medical Board Certified in Family Practice, Internal Medicine or a related specialty. The purpose of the examination shall be to determine respondent's ability to perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician with a copy of the Board's Disciplinary Order prior to the examination. Cost of such examination shall be paid by respondent.

Respondent shall cause the physician to complete a written medical report to be submitted directly to the Board within ninety (90) days of the effective date of the Decision. If the examining physician finds that respondent is not physically fit to practice or can only practice with restrictions the examining physician shall notify the Board, in writing, within five (5) working days. The Board shall notify respondent in writing of the examining physician's determination of unfitness to practice and shall order the respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent. Respondent shall document compliance in the manner required by the Board.

### **15. Psychological Evaluation**

Within sixty (60) days of the effective date of the Decision, respondent shall submit to a psychiatric/psychological evaluation. The evaluation shall be performed by a psychiatrist licensed in California and Medical Board Certified in Psychiatry, or by a clinical psychologist licensed in California. This evaluation shall be for the purpose of determining respondent's current mental, psychological and emotional fitness to perform all professional duties with safety to self and the public. Respondent shall provide the evaluator with a copy of the Board's Disciplinary Order prior to the evaluation. Cost of such evaluation shall be paid by respondent.

Respondent shall cause the evaluator to submit to the Board a written psychological report concerning respondent's status and progress as well as such other information as may be requested by the Board. This report shall be submitted within ninety (90) days from the effective date of the Decision.

If the evaluator finds that respondent is not psychologically fit to practice safely or can only practice with restrictions, the evaluator shall notify the Board, in writing, within five (5) working days. The Board shall notify the respondent in writing of the evaluator's determination of unfitness to practice and shall order the respondent to cease or restrict licensed activities as a condition of probation.

Respondent shall comply with this condition until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent. Respondent shall document compliance in the manner required by the Board.

If the evaluator finds that psychotherapy is required, respondent shall participate in a therapeutic program at the Board's discretion. Cost of such therapy shall be paid by respondent.

#### **16. Psychotherapy**

Within sixty (60) days of the effective date of the Decision, respondent shall submit to the Board the name of one (1) or more proposed therapists for prior approval. Respondent shall participate in ongoing psychotherapy with a California licensed or legally registered mental health professional approved by the Board. Upon approval by the Board, Respondent shall commence psychotherapy. Respondent shall provide the therapist with a copy of the Board's Disciplinary Order no later than the first counseling session. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy shall be paid by respondent.

Respondent shall cause the therapist to submit to the Board a written report concerning respondent's psychotherapy status and progress as well as such other information as may be requested by the Board. The initial psychotherapy report shall be submitted within ninety (90) days from the effective date of the Decision. Respondent shall cause the therapist to submit quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment and to provide such other information as may be required by the Board.

If the therapist finds that respondent is not fit to practice safely, or can only practice with restrictions, the therapist shall notify the Board, in writing, within five (5) working days. The Board shall notify respondent in writing of the therapist's determination of unfitness to practice and shall order the respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent. Respondent shall document compliance with this condition in the manner required by the Board.

#### **17. Rehabilitation Program**

Within thirty (30) days of the effective date of the Decision, respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work settings, random bodily fluid testing, abstention from drugs and alcohol, use of work site monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations and other appropriate rehabilitation or monitoring programs. Cost for participation in this program shall be paid by respondent.

#### **18. Chemical Dependency Support/Recovery Groups**

Within five (5) days of the effective date of the Decision, respondent shall begin attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation.

**19. Abstain from Controlled Substances**

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.

**20. Abstain from use of Alcohol**

Respondent shall completely abstain from the use of alcoholic beverages during the period of probation.

**21. Submit Biological Fluid Samples**

Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon request by the Board or its designee. There will be no confidentiality in the test results; positive test results will be immediately reported to the Board and the respondent's current employer.

**22. Take and Pass the Licensure Examination**

Respondent shall take and pass the licensure examination currently required of new applicants for the license possessed by respondent. Respondent shall pay the established examination fees.

As a condition precedent to reinstatement of a license, respondent shall take and pass the licensure examination currently required of new applicants prior to resuming practice. Respondent shall pay the established examination and licensing fees.

All standard terms or other terms of probation shall be tolled until the respondent has successfully passed the licensure examination and notice of licensure has been mailed to respondent by the Board.

**23. Restriction on Licensed Practice**

Respondent shall practice only with a specified client population, in a specified practice setting, or engage in limited occupational therapy services. These restrictions shall be specifically defined in the Decision and be appropriate to the violation. Respondent shall be required to document compliance in a manner required by the Board.

**24. Suspension**

Respondent is suspended from the practice of occupational therapy for \_\_\_\_\_ days beginning on the effective date of the Decision.

**25. Restitution**

Within \_\_\_\_\_ days of the effective date of this Decision, respondent shall make restitution to \_\_\_\_\_ in the amount of \$\_\_\_\_\_ and shall provide the Board with proof from \_\_\_\_\_ attesting that the full restitution has been paid. In all cases, restitution shall be made before the termination of probation.

**26. Criminal Probation Reports**

Respondent shall provide the Board with a copy of the standard conditions of the criminal probation, copies of all criminal probation reports and the name of his/her probation officer.

**27. Relinquish License and Wall Certificate**

Respondent shall relinquish and shall forward or deliver the license to practice and the wall certificate to the Board within ten (10) days of the effective date of the Decision and order.

**28. Notification to Clients/Cessation of Practice**

In orders that provide for a cessation or suspension of practice, respondent shall comply with procedures provided by the Board regarding notification to, and management of, clients.

***VII. REHABILITATION CRITERIA***

When considering the denial of an occupational therapy practitioner license under section 480 of the Business and Professions Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial, which also could be considered as grounds for denial under section 480 of the Business and Professions Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.

When considering the suspension or revocation of the license of an occupational therapy practitioner on the grounds that the person licensed has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, shall consider the following criteria:

- (1) The nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) The extent to which the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

***VIII. PETITION FOR REINSTATEMENT/REDUCTION IN PENALTY***

When considering a petition for reinstatement of the license or a petition for reduction in penalty, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in section **VII.** above.